



Blue Cross Blue Shield of Michigan Testimony on HB 5254

Good morning, Mr. Chairman and members of the committee. My name is Cami Pendell and I am the Manager of Governmental Affairs for Blue Cross Blue Shield of Michigan. Joining me today is Tim Antonelli who is a Clinical Program Manager in our Pharmacy Services Department.

We are here to express Blue Cross Blue Shield of Michigan's opposition to HB 5254. Before Tim shares with you Blue Cross' concerns pertaining to the negative impact this bill would have on the more technical aspects of our pharmacy contracts and on our pharmacy networks, I would first like to provide you with a general overview of our areas of concern.

First, this bill will impede upon Blue Cross' current contractual process. There are provisions in this legislation that directly conflict with our contracts. Therefore, we would be required to re-contract our entire pharmacy networks, which encompass over 2,000 pharmacies. This would take considerable time and lead to increased administrative and legal costs. It could also negatively impact access to pharmaceutical care for our customers.

Additionally, it also provides a statutory advantage to a provider group in contracting with an organization that establishes a provider panel because it expressly states what the contract must contain. These elements specifically favor the provider group over the organization. This bill would therefore not only impair Blue Cross' ability to maintain its current contracts with pharmacies, but also to effectively manage that network once it is in place because this bill makes it extremely difficult to terminate a pharmacy from a network. This leads into the second area of concern.

The language of the bill goes beyond directly conflicting with provisions in our current contracts because it would actually force Blue Cross to continue to do business with pharmacies that it might otherwise seek to terminate from its network. Section 3D severely limits Blue Cross' ability to manage its networks. It would only allow for the immediate termination of contracts upon certain circumstances - such as a conviction of fraud. We believe the company should retain its ability to manage its networks and to make determinations regarding who it will continue to do business with and under what circumstances.

That being said, there are protective provisions built into our contracts for pharmacies as well. For instance, they provide Blue Cross and the provider with

the ability to terminate the contract without cause after 30 days following a written receipt of notice. This is a right that is extended to both parties. Both parties may also terminate the contract if a breach remains uncured 30 days after written notice of the breach. Additionally, BCBSM provides an appeals process. If an adverse decision is made, whether it pertains to claims, audits or termination, a pharmacy has the ability to appeal that decision.

I do not want to leave you with the impression that terminating a pharmacy from a network is a common occurrence - because it is not. It is an extreme step that is used to address extreme and serious circumstances.

At this time, Tim will address in more detail the negative impact the provisions of this bill would have on our contracts and on BCBSM's requirements to ensure access to care.

Mr. Chairman, Members of the Committee. My name is Tim Antonelli. I am a Pharmacist who works in the Pharmacy Services department at BCBSM as Clinical Program Manager and I am familiar with BCBSM's arrangements with our network pharmacies.

BCBSM manages pharmacy benefits for 2.8 million lives and in order to provide our members with convenient access to pharmacies, we have contracts in place with almost 2,200 retail pharmacies here in Michigan. In 2004 our members filled over 26 million prescriptions here in Michigan through this retail network. Thus, Michigan pharmacies play a very important role in providing health care to our members.

Having said that, we believe provisions in H.B. 5254 would impact our current contracting arrangements with Michigan pharmacies in our network, thereby requiring re-contracting to take place for our Medicare contract, Affinity contract and Blue Care network contract. In order to illustrate the impact let me describe our current contracting set-up.

Today we have most of our contracting arrangements with retail pharmacies set-up under the BCBSM program known as Preferred Rx. Under this program, there is a standard contract for which there are subsets of programs that have been established by amending this contract. This includes our Affinity program that allows certain members to obtain BCBSM negotiated pharmacy rates, the Blue Care Network (BCN) HMO pharmacy program for which BCBSM is the parent organization, and the new Medicare Part D program which has special amendments for contracting with retail pharmacies, home infusion pharmacies, long-term care pharmacies and Indian/Tribal/Urban (ITU) pharmacies.

Given this information, the provision in H.B. 5254 that restricts plans from requiring a pharmacy provider to participate in a network contract as a condition for participation in any other network would be an issue. For example, we

established our Medicare network contracts under the Preferred Rx contract and therefore a pharmacy cannot be in our Medicare network without being in our standard Preferred Rx network. While pharmacies are able to “opt out” of our Medicare network and remain in the Preferred RX network, the reverse is not true. Having said that, it is not BCBSM's intent to force pharmacies into a Preferred Rx contract, rather this was a means for BCBSM to work with our network pharmacies in the short period of time given to us by CMS to establish a network of pharmacies willing to service our Medicare product and still meet CMS's very stringent TRICARE pharmacy access standards. Since almost every retail pharmacy in Michigan is in our network, it made sense that for BCBSM and the pharmacies, an established contract would be easier to amend than start contracting from scratch. Therefore, we have the current contracting arrangement that is in place today.

As well, our Affinity program and BCN program contracts are set up in a similar fashion and would be impacted by the provisions in this bill necessitating re-contracting.

Furthermore, H.B. 5254 has provisions for termination of a provider from the network that would limit the circumstances we currently describe in our contracts. This includes the right to terminate a pharmacy from the network for the following reasons; 1) if the pharmacy's drug enforcement administration (DEA) number is lapsed, restricted or suspended, 2) a provider or relevant individual (e.g. owner) pleads guilty to a felony related to the provision of health care, 3) a provider ceases doing business at the contracted location or 4) a providers' liability insurance is reduced below the amounts required in our contracts. All of which are contract provisions that serve to protect our members.

With that, we conclude our testimony and would like to thank you for this opportunity to share our concerns about House Bill 5254. We would be happy to answer and questions at this time.